

JOHN M. SHIMKUS
15TH DISTRICT, ILLINOIS

2452 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-5271

ENERGY AND COMMERCE
COMMITTEE

SUBCOMMITTEES:
ENVIRONMENT AND THE ECONOMY
CHAIRMAN

HEALTH

ENERGY AND POWER

COMMUNICATIONS AND TECHNOLOGY

Congress of the United States
House of Representatives
Washington, DC 20515-1315

15 PROFESSIONAL PARK DRIVE
MARYVILLE, IL 62062
(618) 288-7190

CITY HALL, ROOM 12
110 EAST LOCUST STREET
HARRISBURG, IL 62946
(618) 252-8271

101 NORTH FOURTH STREET, SUITE 303
EFFINGHAM, IL 62401
(217) 347-7947

201 NORTH VERMILION STREET, SUITE 218
DANVILLE, IL 61832
(217) 466-0664

August 21, 2014

Prairie Rivers Network
1902 Fox Drive, Suite G
Champaign, IL 61820

Dear Friends,

Thank you for writing to suggest that the Subcommittee on Environment and the Economy hold a hearing regarding the issue of coal ash impoundments and specifically, whether the U.S. Environmental Protection Agency (EPA) is doing what it can to deal with coal ash.

The Environment and the Economy Subcommittee has actively been working for the past four years to ensure that there are stringent minimum federal standards for the regulation of coal ash disposal structures – including requiring liners, groundwater monitoring, and other standards to identify and address leaking surface impoundments. The Subcommittee has already held two hearings specifically on the topic of coal ash where we heard from EPA, State regulators, and stakeholders. We drafted comprehensive legislation to address the issue which we have been working to enact and which has been considered by the U.S. House of Representatives on four occasions.

It's my understanding that EPA also is doing what it can to address the coal ash issue, including working constructively with the Subcommittee on Environment and the Economy to improve our coal ash legislation. At the most recent coal ash hearing before our subcommittee, EPA Assistant Administrator Mathy Stanislaus made positive comments about our bill, and he also made some suggestions for improvement, which we immediately incorporated. In the wake of the assistance we received from EPA on the text of the coal ash legislation, the Committee on Energy and Commerce debated and reported on a bi-partisan basis H.R. 2218, the Coal Combustion Residuals Re-use and Management Act of 2013. H.R. 2218 sets stringent minimum federal standards that all states would have to incorporate into an enforceable permit program for coal ash. On July 25, 2013, the full House of Representatives passed H.R. 2218 on a strong bi-partisan vote of 265 to 155.

EPA is also under a court order to finalize a rule for coal ash, and we understand your concern regarding the scope of EPA's current rulemaking. The issue is that under current law EPA has two choices: if it wants to establish an enforceable permit program for coal ash under the Solid Waste Disposal Act it must do so under Subtitle C and thereby consider coal ash a hazardous waste – which EPA has

previously on two occasions determined that coal ash does not warrant regulation as a hazardous waste. EPA's other regulatory option is to promulgate standards for regulation of coal ash under Subtitle D which governs non-hazardous waste. However, under Subtitle D EPA does not have authority to implement an enforceable permit program.

In short, in finalizing a rule unless EPA calls coal ash "hazardous" there will be no permits, no regular government compliance inspection, and no direct enforcement of the standards governing coal ash. The Committee's bill on the other hand would provide a solution for the conundrum facing EPA. The bill provides for enforceable State permit programs that must meet minimum federal standards including, among others, requirements for liners, groundwater monitoring, annual inspections regarding structural stability, and remedial action or closure for leaking impoundments.

The Administration knows how much we appreciate their constructive approach as the House drafted H.R. 2218, and they know how eager we are to work with them and with the Senate to finish work on the measure. Once enacted, the nation will have stringent coast-to-coast minimum standards for managing coal ash. And the economically critical option of beneficial re-use will be preserved. Meanwhile, states such as Illinois will have the option to adopt standards even more stringent than the federal ones.

If you have not done so already, I suggest you contact my friends, Senators Dick Durbin and Mark Kirk, and urge them to work in the same bi-partisan spirit with us in the House and with the Administration to get H.R. 2218 or a similar Senate bill enacted.

Best wishes,



JOHN SHIMKUS
Member of Congress